United Nations

S/2008/68

Security Council

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# Letter dated 1 February 2008 from the Chargé d'affaires a.i. of the Permanent Mission of Eritrea to the United Nations addressed to the President of the Security Council

I have the honour to transmit herewith a self-explanatory statement issued today by the Ministry of Foreign Affairs of Eritrea entitled "Statement on Security Council resolution 1798 (2008)" (see annex).

I should be grateful if the present letter and its annex were circulated as a document of the Security Council.

(*Signed*) Tesfa Alem Seyoum
Chargé d'affaires a.i.

08-22677 (E) 050208

**Annex to the letter dated 1 February 2008 from the Chargé d'affaires a.i. of the Permanent Mission of Eritrea to the United Nations addressed to the President of the Security Council**

**Statement on Security Council resolution 1798 (2008)**

As it will be recalled, key tenets of the Algiers Peace Agreement are contained in Articles 4.2 and 4.15 which read as follows:

i) "The Parties agree that a neutral Boundary Commission composed of five members shall be established with a mandate to delimit and demarcate the colonial treaty border based on pertinent colonial treaties (1900, 1902 and 1908) and applicable international law. The Commission shall not have the power to make decisions *ex aequo et bono*". (Article 4.2.)

ii) "The Parties agree that the delimitation and demarcation determinations of the Commission shall be final and binding. Each party shall respect the border so determined, as well as the territorial integrity and sovereignty of the other party". (Article 4.15)

In accordance with these explicit provisions and its overall mandate as stipulated in the Algiers Agreement, the Boundary Commission has fully accomplished its delimitation and demarcation determinations. Indeed, in its 26th report to the UNSC filed in January this year, the EEBC asserts:

"For its part, the Commission feels obliged to re-affirm the considerations of fact and the statements of law set out in its statement of 27 November 2006. The Delimitation Decision of 13 April 2002 and the Statement of 27 November 2006 remain binding on the Parties… In stipulating that the boundary now automatically stands as demarcated by the boundary points listed in the Annex to the 27 November 2006 Statement, ***the Commission considers that it has fulfilled the mandate given to it***" (emphasis added)

The EEBC's demarcation by coordinates, which has been termed as virtual demarcation, delivered to the Parties through the UN Cartographic Office in November last year thus constitutes a culmination of the arbitration process and a final and comprehensive settlement of the border issue. In the event, the UN Security Council has no other authority or function other than enforcing the delimitation and demarcation determinations of the EEBC which are final and binding in accordance with the Algiers Agreement.

It is indeed against this backdrop that the Government of Eritrea has been repeatedly urging the Security Council to shoulder its legal and moral responsibilities to ensure the withdrawal of the army and institutions of the Ethiopian regime from the occupied territories.

While these are the facts of the matter, the United Nations Security Council, acting under pressure from the United States Government, adopted Resolution 1798 (2008) this Wednesday in contravention of fundamental premises of the United Nations Charter as well as key principles of international law.

As noted above, Security Council Resolution 1798 (2008) violates Article 2.3 and 2.4 of the UN Charter, and, disregards the lawful and authoritative decisions of the Eritrea Ethiopia Boundary Commission as well as earlier decisions of the Security Council itself. Indeed, the Security Council had instructed Ethiopia to dismantle its illegal settlements in Dembe Mengul, south of Badme, within 30 days in August 2002 (S/C/Resolution 1430 (2002). Ethiopia never complied with this order and the Security Council never took appropriate action to enforce Ethiopia's compliance.

Furthermore, the Resolution is not only replete with contradictory assertions, but also distorts fundamental tenets of the Algiers Peace Agreement through omissions and selective reading. Thus, while the TSZ, which lies entirely on Eritrean territory and covers almost a quarter of the country, was never intended to create a permanent security zone in the territory of one of the parties, the Resolution tries to give it a different meaning.

Security Council Resolution 1798 (2008) has no basis in either the Algiers Peace Agreement or the UN Charter. The Resolution dwells on tangential issues in an apparent desire to rationalise and justify the UN Security Council's failure to shoulder its legal obligations to date. In the event, it will not advance the cause of legality and international justice. Resolution 1798 (2008) will only contribute to a complication of the situation and is ultimately meant to serve the US agenda of "escalation and management of crises in the region".

The unwarranted action of the US Government will not serve the cause of peace and security in our region. Moreover, the Security Council's unfortunate decision to accede to US pressure will undermine the integrity of the UN Charter as well as set a dangerous precedent in international law.

Eritrea finds Resolution 1798 (2008) irrelevant for all the cogent considerations underlined above.

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**Letter dated 3 February 2008 from the Permanent Representative of Chad to the United Nations addressed to the President of the Security Council**

On the instructions of my Government, I must convey to you the following message:

"My country is currently facing an attempt to overthrow its legal Government by force.

"Faced with this flagrant violation of international law, Chad appeals to all States to provide all aid and assistance needed to help it end this aggression.

"Chad solicits the support of the Security Council in this regard."

I should be grateful if you would have the present letter circulated as a document of the Security Council.

(*Signed*) Mahamat Ali **Adoum**
Ambassador
Permanent Representative

08-22727 (E) 040208 040208

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General Assembly
Security Council

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**General Assembly**
**Sixty-second session**
Agenda items 17 and 18

**The situation in the Middle East**

**Question of Palestine**

**Security Council**
**Sixty-third year**

## Letter dated 31 January 2008 from the Permanent Representative of Cuba to the United Nations addressed to the Secretary-General

In my capacity as Chairman of the Coordinating Bureau of the Movement of Non-Aligned Countries, I have the honour to enclose herewith a statement by the Coordinating Bureau of the Non-Aligned Movement on the situation in the occupied Palestinian territory, particularly in the Gaza Strip, adopted on Thursday, 31 January 2008 (see annex).

The recent failure of the Security Council to act to address the situation in the occupied Palestinian territory, particularly the humanitarian crisis in the Gaza Strip, resulting from the illegal and deliberate policies and practices of Israel, the occupying Power, against the Palestinian civilian population, constitute a clear example of the lack of capacity of this organ to effectively fulfil its primary responsibility for the maintenance of international peace and security conferred by Article 24, paragraph 1, of the Charter of the United Nations.

Furthermore, I kindly request that the above-mentioned document be circulated as a document of the sixty-second session of the General Assembly, under agenda items 17 and 18, and of the Security Council.

(*Signed*) Rodrigo **Malmierca Díaz**
Permanent Representative of Cuba to the United Nations
Chairman of the Coordinating Bureau
of the Non-Aligned Movement

08-22786 (E) 060208

## Annex to the letter dated 31 January 2008 from the Permanent Representative of Cuba to the United Nations addressed to the Secretary-General

## Statement by the Coordinating Bureau of the Non-Aligned Movement on the situation in the occupied Palestinian territory, particularly in the Gaza Strip

The Coordinating Bureau of the Non-Aligned Movement (NAM) expresses its deep regret that, once again, the Security Council was unable to act to address the situation in the occupied Palestinian territory, particularly the humanitarian crisis in the Gaza Strip, resulting from the illegal and deliberate policies and practices of Israel, the occupying Power against the Palestinian civilian population.

This recent failure of the Security Council to deal with the situation in Gaza will not help to ameliorate the situation on the ground, will not help to advance the peace process and will not engender confidence in the credibility of the Security Council and its ability to effectively address those serious issues that come before it.

NAM expresses its appreciation to the members of the NAM Caucus in the Security Council and to other members of the Security Council, in fact the overwhelming majority of them, that exerted serious efforts and acted in good faith in an effort to have the Security Council uphold its responsibilities and respond in a timely and practical manner to the ongoing escalating tragedy in the Gaza Strip.

NAM reiterates its deep concern about the critical humanitarian situation in the Gaza Strip and the ongoing illegal Israeli practices throughout the rest of the occupied Palestinian territory, and once again calls upon Israel, the occupying Power, to abide by its obligations under international law and to immediately cease its collective punishment of the Palestinian people and all other illegal actions in the occupied Palestinian territory, including East Jerusalem. NAM calls upon Israel to open the Gaza Strip's border crossings to allow for the movement of persons and goods, including essential humanitarian supplies, such as food and medicine, and fuel supplies in order to alleviate the humanitarian suffering of the Palestinian civilian population. In this regard NAM welcomes the Palestinian Authority proposal to assume responsibility for the Palestinian side of the Gaza Strip's border crossings.

NAM reaffirms its commitment to continuing its efforts to alleviating the hardship of the Palestinian people during this difficult time and to promoting the achievement of a just, lasting and peaceful settlement of the question of Palestine, with the realization of the inalienable rights of the Palestinian people in their independent State of Palestine, with East Jerusalem as its capital.

New York, 31 January 2008